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AMERICAN INSURANCE COMPANY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

THE LAW OFFICE OF ROBERT B.
JOBE, P.C., ROBERT BRADFORD
JOBE,

Plaintiff,

vs.

ZURICH AMERICAN INSURANCE
COMPANY,

Defendant.

Case No. 4:24-cv-06325-YGR

The Hon. Yvonne Gonzalez Rogers

**[PROPOSED] ORDER GRANTING
DEFENDANT ZURICH AMERICAN
INSURANCE COMPANY'S MOTION
FOR JUDGMENT ON THE
PLEADINGS PURSUANT TO FRCP
12(c)**

[Filed concurrently with Notice of Motion;
Declaration of Adam Fazio and Exhibit A]

Date: **December 3, 2024**

Time: **2:00 p.m.**

Place: **Courtroom 1 – 4th Floor**

Action Filed September 9, 2024

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On December 3, 2024, at 2:00 p.m., in Courtroom 1 – 4th Floor of the above-entitled court, Defendant Zurich American Insurance Company’s (“Defendant”) Motion for Judgment on the Pleadings came on regularly for hearing. Appearances were noted in the record.

After full consideration of the evidence, including the declarations, authorities and pleadings submitted, as well as the argument of counsel, the Court finds that Plaintiffs The Law Office of Robert B. Jobe, P.C., and Robert Bradford Jobe (“Plaintiffs”) have failed to assert an actual case or controversy as required (*Principal Life Ins. Co. v. Robinson*, 394 F.3d 665, 669 (9th Cir. 2005) and *Brookfield Property Group, LLC v. Liberty Mutual Fire Insurance Co.*, 679 F.Supp.3d 971, 979 (C.D. Cal. 2023)), because they fail to allege satisfaction of the subject policy’s self-insured retention for defense costs, which is a condition precedent to Defendant’s obligation to pay for defense counsel. In the absence of satisfaction of the self-insured retention for defense costs, Defendant has the right to assign defense counsel (*Carolina Cas. Ins. Co. v. Bolling, Walter & Gawthrop*, 2005 WL 1367096, *7 (E.D. Cal. 2005)), but no duty to pay for same (*General Star Indem. Co. v. Sup.Ct. (Hard Rock Cafe America, L.P.)*, 47 Cal.App.4th 1586, 1591-1594 (1996)). Judgment is entered in favor of Defendant and this action is dismissed in its entirety with prejudice.

IT IS ORDERED AND ADJUDGED that judgment be entered in favor of Defendant, that Plaintiffs take nothing by this action, and that Defendant be dismissed from this action with prejudice.

DATED: _____, 2024

Honorable Yvonne Gonzalez Rogers

PROOF OF SERVICE

STATE OF , COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of . My business address is 515 South Figueroa Street, Suite 1470, Los Angeles, CA 90071-3331.

On October 28, 2024, I served true copies of the following document(s) described as **[PROPOSED] ORDER GRANTING DEFENDANT ZURICH AMERICAN INSURANCE COMPANY'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO FRCP 12(c)** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☒ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 28, 2024, at Los Angeles, California.



Rose Hernandez

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